

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

TRUSTEES OF THE NATIONAL ELEVATOR
INDUSTRY PENSION FUND

2008 MAR 12 A:10:17

Plaintiffs,

v.

CIVIL ACTION NO.

DALLAS CAVINESS

and

DEVIN CAVINESS
c/o Rhonda Caviness

and

ROBERT W. CAVINESS

Defendants.

2:08CV162-MEF

MOTION TO APPROVE DEPOSIT OF PENSION BENEFIT PROCEEDS

Plaintiffs, Trustees of the National Elevator Industry Pension Fund ("Trustees"), by and through their undersigned counsel, respectfully move this Court to grant their request to deposit the pension benefit proceeds at issue into the Court's registry.

The grounds for this Motion include:

1. The named Defendants in this action have made competing claims to the proceeds of a Pre-Retirement Death-in-Service Benefit payable to the beneficiary of George Caviness, deceased.
2. Given the competing claims, the Plaintiffs are unable to make payment of the

monthly Pre-Retirement Death-in-Service pension benefit of \$1,113.57, as well as the lump-sum payment that represents the monthly pension payments for the period February 2007 through and including March 2008, without subjecting itself to multiple liability;

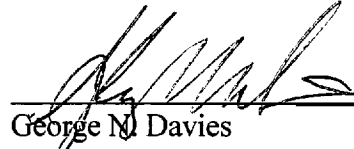
3. The Plaintiffs are an innocent, disinterested stakeholder regarding the Pre-Retirement Death-in-Service Benefit proceeds and claim no beneficial interest in them.

WHEREFORE, Plaintiffs, Trustees of the National Elevator Industry Pension Fund, respectfully request that this Court grant the relief requested in its Complaint, specifically:

1. The Court accept the proceeds of the Pre-Retirement Death-in-Service pension benefit for the months of February through and including March 2008, as well as the monthly pension benefit until the Court resolves the issues between the Defendants, into its Registry;
2. That on final hearing, the Court award the Pre-Retirement Death-in-Service Benefit to whomever it deems to be rightfully and legally entitled to the proceeds; and
3. That the Court award the Plaintiff such other and further relief as the Court deems just and equitable,

DATE: March 6, 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read "G. M. Davies", is written over a horizontal line.

George M. Davies
Alabama Bar No. ASB-3923-A63G

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Approve Deposit of Pension Benefit Proceeds has been served by first class mail this 6th day of March, 2008 on the following:

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